

MINUTES

**TENNESSEE SOLID WASTE DISPOSAL CONTROL
BOARD MEETING
RUTH NEFF CONFERENCE ROOM
17TH FLOOR, L & C TOWER
NASHVILLE, TENNESSEE**

FEBRUARY 4, 2003

Board Members Present:

Mr. Wilton Burnett
Ms. Janet Evans
Mr. Sizwe Herring
Dr. Greg Nail
Mr. J. P. Newman, Chairman
Mr. Ken Pointer
Mr. Robert Waddell
Mr. David Wallace
Mr. Bob Whetsel
Mr. Glenn Youngblood

Board Members Absent:

Mr. Joe Mahan

Chairman Newman called the meeting to order at 9:01 a.m. After noting that a quorum was present, he welcomed Dr. Greg Nail and introduced him to the board and attendees.

I. SOLID WASTE DISPOSAL CONTROL BOARD MATTERS

A. Approval of Minutes from the December 3, 2002 Board Meeting

Chairman Newman asked if the Board members had reviewed the Draft Minutes from the December 3, 2002 Board Meeting. There were no questions, changes or comments. A **motion** was made by Mr. Waddell and **seconded** by Mr. Youngblood, **to approve the Minutes from the December 3, 2002 Board Meeting. The motion carried unanimously by voice vote.**

B. Election of Officers

Chairman Newman stated that the next item of business is the election of this year's officers. There are three offices: chairman, vice-chairman and a second vice-chairman. A **motion** was made by Ms. Evans and **seconded** by Mr. Pointer, to appoint Mr. Phil Newman as chairman. **The motion carried unanimously by voice vote.** A **motion** was made by Mr. Burnett and **seconded** by Mr. Pointer, to appoint Ms. Janet Evans as vice-chairman. **The motion carried unanimously by voice vote.** A **motion** was made by Mr. Burnett and **seconded** by Mr. Whetsel to appoint Mr. Waddell as second vice-chairman. **The motion carried unanimously by voice vote.**

II. GENERAL BUSINESS/STAFF REPORTS

Ms. Jamie Burroughs, manager of the permitting section asked if the board members had a chance to review the quarterly report. She asked if there were any questions. The board members did not have any questions.

III. REGULATORY MATTERS

A. Proposal to Delist Scratch Ankle Road Dump Guild, (#58-504/Marion County) from the List of Inactive Hazardous Substances Sites

Mr. Bob Powell, Enforcement Manager for the Division of Superfund provided Board members an overview regarding the Scratch Ankle Road Dump. He stated that a public hearing was held on December 19, 2002 in Marion County, Jasper, Tennessee to receive comments from the public regarding this rulemaking. There was one attendee at the meeting; however, no formal comments were received. The Scratch Ankle Road Dump site is proposed for delisting because all hazardous substances have been removed from the site or determined to be below action levels for cleanup. There is no longer a risk to public health and the environment and all cost recovery issues have been resolved as there are no viable responsible parties and \$102,567.42 in investigation and cleanup costs have been absorbed by the Hazardous Waste Remediation Action Fund.

After review and discussion by the Board, a **motion** was made by Mr. Youngblood and **seconded** by Mr. Wallace, to **Delist Scratch Ankle road Dump Guild, (#58-504/Marion County) from the List of Inactive Hazardous Substances Sites**. There was no further discussion, and the **motion carried unanimously by a roll call vote. The vote was as follows:**

Burnett	Yes	Evans	Yes
Herring	Yes	Mahan	Absent
Nail	Yes	Newman	Yes
Pointer	Yes	Waddell	Yes
Wallace	Yes	Whetsel	Yes
Youngblood	Yes		

B. Proposal to List Tennessee Transformer, Inc. Chattanooga, (#33-635/Hamilton County) on the List of Inactive Hazardous Substances Sites

Mr. Bob Powell, Enforcement Manager for the Division of Superfund provided Board members an overview regarding the Tennessee Transformer, Inc. He stated that a public hearing was held on August 20, 2001 in Chattanooga, Tennessee to receive comments from the public regarding this rulemaking. No formal comments were received. The Tennessee Transformer, Inc. site is proposed for listing because the hazardous substance disposal occurred prior to 1980 through a process that is no longer in use. Hazardous substances are present in site soils and in off site properties and the site poses or may reasonably be anticipated to pose a threat to public health, safety, and the environment.

After review and discussion by the Board, a **motion** was made by Mr. Burnett and **seconded** by Mr. Waddell, to **List Tennessee Transformer, Inc. Chattanooga, (#33-635/Hamilton County) on the list of Inactive Hazardous Substances Sites**. There was no further discussion, and the **motion carried unanimously by a roll call vote. The vote was as follows:**

Burnett	Yes	Evans	Yes
Herring	Yes	Mahan	Absent
Nail	Yes	Newman	Yes
Pointer	Yes	Waddell	Yes
Wallace	Yes	Whetsel	Yes
Youngblood	Yes		

C. **Request to Schedule Public Hearing for Proposed Solid Waste Regulation Revision “q” Amendments**

Mr. Greg Luke, with the Solid Waste Program provided Board members an overview of the proposed changes for Revision “q” of the Solid Waste Management Rules 1200-1-7-13. Five amendments are proposed. The purpose of the rule is to establish procedures, documentation and requirements that must be met in order for a person to design, construct and operate a land application facility in Tennessee.

Mr. Jeff Norman presented a PowerPoint presentation that outlined the rule. There will be a change in the current definition. The focus is on food processing waste. There are seven permit requirement areas and ten operational standards. There is an application fee and an annual permit fee. The rule also incorporates record keeping, reporting and financial assurance. The environmental issues that are of concern are surface water, soil contamination, groundwater contamination and odor. Mr. Norman had several photos in the presentation that illustrated areas that were in compliance with the standards now in place. He also showed pictures of facilities that were not in compliance and were the motivation for the change in the rule.

After review and discussion by the Board, a **motion** was made by Ms. Evans and **seconded** by Mr. Youngblood, to **schedule public hearing for proposed Solid Waste Regulation Revision “q” Amendments. The motion carried unanimously by voice vote.**

D. Revision “w” Hazardous Waste Rules- Adoption Consideration

Mr. Jerry Ingram, program manager of the program development section came before the board to present the new rules for adoption consideration. Before his presentation, he updated the board members of the status of the annual reports. The annual reports were finished and the last were mailed out the week of January 27th. Two fee sheets were included, the Division’s penalty policy and a training schedule brochure. The waste activity audit section is conducting workshops for the clients to explain new fees, assessments and reporting form changes. The workshops were conducted in west, middle and east Tennessee during the months of January and February. The deadline for submittal of annual renewal packets and fees is March 1, 2003.

The rulemaking hearing for revision “w” was held on November 19, 2002. Two people attended the hearing. There was a brief question and answer period and they submitted comments in both verbal and written form. There was only one set of comments received during the comment period. The changes to the rule were made because of housekeeping updates, typos and Federal Register changes.

After review and discussion by the Board, a **motion** was made by Mr. Whetsel and **seconded** by Mr. Youngblood, to **Adopt Hazardous Waste Rules Revision “w”**. There was no further discussion, and the **motion carried unanimously by a roll call vote. The vote was as follows:**

Burnett	Yes	Evans	Yes
Herring	Yes	Mahan	Absent
Nail	Yes	Newman	Yes
Pointer	Yes	Waddell	Yes
Wallace	Yes	Whetsel	Yes
Youngblood	Yes		

Mr. Mike Apple introduced Commissioner Betsy Child. She came before the board to say hello and thank the board for all the work that they do. She discussed working on the budget with several of the various departments and asked if the board members had any questions or comments. Chairman Newman thanked Commissioner Child for taking the time to come and observe the board meeting. Commissioner Child said that she wanted to come to the April meeting and stay for the whole meeting. Mr. Mike Apple thanked the Commissioner for coming to the meeting and let her know that she could talk to each board member individually during the break.

III. AGREED/CONSENT ORDERS

A. Town of Greeneville SWM Case #02-0177/GreeneCounty

Mr. Max Fleischer, Assistant General Counsel for the Department, distributed copies of his summary, the original Director's Order and the proposed Agreed Order to the Board members for their review.

The summary stated that the Director of the Division of Solid Waste Management issued the Director's Order. The Respondent accepted CCA treated lumber and sawdust that was the result of manufacturing processes. Lumber and sawdust from a manufacturing facility is a special waste and, as such, prior approval by the Division was required for the acceptance of such waste.

The Division issued the Director's Order in this case to address the Respondent's acceptance of special waste without the Division's prior approval. The Director's Order in this case imposed civil penalties of \$5,000.00 which would become due if the Respondent in the five year period following the entry of the Order violated certain requirements contained in the rules.

The Agreed Order provides for a civil penalty which would become due if the Respondent fails to submit a plan to the Division documenting the procedures it will follow to identify and manage special waste in compliance with the regulations of the Division concerning the acceptance of special waste. If the Respondent submits the required plan the Respondent shall pay the Division \$1,000.00 for each time it accepts special waste without prior Division approval during the two years following the entry of this Agreed Order in the APD up to the maximum of \$5,000.00. These penalties shall be paid within thirty days of the Division notifying the Respondent of each unauthorized acceptance of special waste that the Division has discovered. Any additional unauthorized acceptance of special waste would be addressed through the issuance of an additional Order and Assessment pursuant to Tenn. Code Ann. §§68-211-122 and 68-211-117.

After review and discussion a **motion** was made by Mr. Waddell, and **seconded** by Mr. Burnett, **to approve the proposed Agreed Order**. There was no further discussion, and **the motion carried by voice vote**.

B. John T. and Sharon K. Oakley SWM Case #01-0753/Coffee County

Mr. Max Fleischer, Assistant General Counsel for the Department, distributed copies of his summary, the original Director's Order and the proposed Agreed Order to the Board members for their review.

The summary stated that the Director of the Division of Solid Waste Management issued the Director's Order. The Respondents were ordered to clean up or close in place the alleged unlawful disposal sites located on lots owned by them in a subdivision. On several occasions the Division had visited the subdivision and observed the disposal of household waste, demolition waste and tires and other miscellaneous waste. The Respondents had effectively been operating as landlords for persons who would abandon some personal items when abandoning the housing or when being evicted due to nonpayment of a real estate contract. The Director's Order also described occasions on which there was unlawful open burning of waste.

The Order in this case assessed damages of \$1,512.16. The Order also assessed civil penalties of \$2,000.00 which were required to be paid within thirty days of the Respondents receipt of the Order and an additional \$8,000.00 if the Respondents failed to close or clean up the sites. The Respondent appealed the Director's Order.

The Respondents have closed all of the dumpsites and filed the required deed notices.

In order to settle this matter without the costs associated with a trial before this Board and any appeals that could follow, the parties have agreed to enter into this Agreed Order. This Agreed Order provides for a payment of \$3,400.00 in civil penalties and damages. There has been no reduction

in the damages assessed. Therefore, the actual civil penalty amount is \$1,887.40. This represents a reduction of slightly over 5% of the \$2,000.00 civil penalty

After review and discussion a **motion** was made by Ms. Evans, and **seconded** by Mr. Youngblood, **to approve the proposed Agreed Order**. There was no further discussion, and **the motion carried by voice vote**.

II. OTHER BUSINESS

Mr. Apple asked if the board members wanted to move the meeting scheduled for April 1-2, to April 29. This meeting will be held in Gatlinburg. There were no objections from the board. **The meeting scheduled for April 1-2 has been cancelled and is now scheduled for April 29, 2003 in Gatlinburg, Tennessee.**

Mr. Apple discussed with the board the budget cuts that were made by the Division. The Division of Solid Waste Management cut \$400,000. This did not result in a loss of personnel or positions. The level of service will remain the same. The permitting process will not be affected. The impact will be on the Solid Waste side. The Hazardous Waste program has no state dollars appropriated in the budget. The budgeted dollars for salaries went from 6 million to 7.4 million dollars this year for staff in the Division. Mr. Apple let the board members know that Ms. Mary Evans would be handling reservations for Gatlinburg.

Mr. Herring asked when the air pollution control board meeting is held so that he could attend the meeting. Mr. Pointer said that they meet on February 12 and March 12 and they start at 9:30. Mr. Apple said that all the board meetings are listed on their website.

There was no further business by the Board or staff; a Motion was made by Mr. Burnett and seconded by Ms. Evans to Adjourn at 11:25 a.m. on Tuesday, February 4, 2003.

SUBMITTED BY:

Mike Apple, Technical Secretary

Date

APPROVED BY:

J.P. Newman, Chairman
Solid Waste Disposal Control Board

Date